

**INDIVIDUAL REPORT OF THE TANZANIA NATIONAL HUMAN RIGHTS
INSTITUTION SUBMISSION TO THE HUMAN RIGHTS COUNCIL**

UNIVERSAL PERIODIC REVIEW MECHANISM

UPR 12th SESSION, 2011

REVIEW OF THE UNITED REPUBLIC OF TANZANIA

SUBMITTED BY:

**COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE
(CHRAGG)**

MARCH, 2011

A. EXECUTIVE SUMMARY

1. In this submission the Commission for Human Rights and Good Governance (CHRAGG) which is the National Human Rights Institution and Office of the Ombudsman in Tanzania provides highlights on the human rights situation drawing on researches, monitoring and investigation reports. Dissatisfaction over the 2010 general elections processes and results announced by the National Elections Commission was the cause of clashes between Police and demonstrators in Tanzania Mainland in a number of constituencies. During politically motivated demonstrations and rallies, excessive use of force by Police was reported in one region. In Zanzibar, political dialogue resulted into a coalition government and 2010 general elections were free from violence.
2. There has been a popular demand for constitutional reform aiming at consolidating human rights and governance situations. The government has indicated that it will facilitate the process.
3. Summary of other issues in this submission include gaps, challenges, achievements and recommendations concerning administration of justice; right to life in relation to the killing of persons with albinism, older women because of witchcraft related beliefs, mob violence that target suspects of theft, death penalty and rights of persons in detention. Challenges that are related to economic, social and cultural rights are major impediments in the application of human rights in poverty reduction, in conducting businesses and trade and providing quality and adequate basic services like education, health and land rights. The report urges the government to address issues of good governance and human rights during elections, deal with general gender disparities, gender based violence and the predicament of vulnerable and minority groups.

B. METHODOLOGY AND CONSULTATIONS

4. CHRAGG with support from the UN country team and Office of High Commissioner for Human Rights regional office for East Africa initiated the UPR process starting with training. Treaty Bodies' recommendations and concluding observations, various reports from government departments and Civil Society Organizations (CSOs) from Tanzania mainland and Zanzibar became the additional source of information included in this report. CHRAGG initiated consultations and participated in discussions organized by the government and networks of human rights CSOs as part of the Universal Periodic Review (UPR) report preparation.

C. PROMOTION AND PROTECTION OF HUMAN RIGHTS IN TANZANIA, ACHIEVEMENTS, CHALLENGES AND RECOMMENDATIONS

5. Right to Life:

Despite the fact that right to life is guaranteed by the Constitution of the United Republic of Tanzania which is in line with both regional and international human rights instruments, there have been problems and concerns related to this right as hereunder explained:

6. **Killing of persons with albinism and deaths due to skin cancer:** By February 2011, a total of 57 Persons with albinism had been killed, and 7 were injured, due to witchcraft related beliefs that body parts of persons with albinism bring fortune.
7. The Tanzania government has taken stern measures to protect persons with albinism including drawing up lists all over the country, identifying a boarding school for children with albinism, initiating nation-wide campaigns to collect people's opinions about the alleged perpetrators and fast-tracking of criminal investigations and prosecutions of suspects. Incidences of killings have dropped over the last few years. However, stigmatization and differential treatment of persons with albinism continue and some filed cases before the court have taken long to be concluded.
8. **Recommendations:** The government is urged to continue with its initiatives and provide technical and financial support to enable CHRAGG, CSOs and other stakeholders conduct public education, researches, public inquiries and investigations to increase awareness and establish the underlying causes and seek solutions to the problems.
9. Skin cancer is also a major cause of deaths among persons with albinism. The main challenges include inadequate access to information about skin cancer, health services, medications and availability of special skin lotions to protect persons with albinism skin from sun burn effects.
10. **Recommendation:** The government is urged to ensure provision of adequate health services and education in the prevention of cancer among persons with albinism.
11. **The killing of older women due to witchcraft related beliefs:** Between 2007 and 2009 a total of 269 older women were killed in ten districts in Tanzania Mainland¹. The underlying causes are related to inheritance of land and cattle but together with the illogical witch hunting that associates older women with witchcraft and sorcery.

¹ Investigation and Public Enquiries on extra-judicial killings - CHRAGG's 2009 findings

12. **Recommendation:** The government is argued to increase efforts to protect vulnerable women and address the issue with dynamism in areas where these killings are rampant.
13. **Mob violence targeting suspects of theft:** Official records show that within a year over 300 suspects lose their lives as a result of mob violence.² CHRAGG monitoring reports revealed that loss of confidence and low level of human rights awareness among law enforcers and the general public is the main cause behind the violence.
14. **Recommendations:** The government is urged to: (i) empower law enforcement agencies in terms of resources as well as human rights education. (ii) step- up public education and campaigns on the right to life and the respect for rule of law (iii) ensure law enforcers adhere to principles of accountability, professional codes of ethics and conduct (iv) ensure police force is more vigilant in conducting investigations and prosecuting perpetrators.
15. **Death Penalty:** By December 2010, there were 295 males and 11 females condemned prisoners³. Death penalty is still part of Tanzania penal laws, and there is conflicting opinion from the general public on abolition of the death penalty.
16. **Recommendation:** The government is urged to: (i) ratify the second optional protocol of the International Covenant on Civil and Political Rights (ICCPR) that calls for the abolition the death penalty.

D. LAND OWNERSHIP RIGHTS

17. The Tanzania land policy and laws safeguard and protect land tenure for the majority. However, there have been improper acquisition and land use, unfair evictions, delayed and unfair compensations. These have had adverse effects on the right to development specifically to the poor.
18. **Rights of occupancy:** The procedures in relation to registration of land are coupled with mal-administration and misuse of office at various levels which result into double allocations and numerous land disputes among citizens.
19. **Recommendations:** The government is urged to: (i) avoid arbitrary evictions of citizens and if any for justifiable reasons they should be accompanied by prompt and fair compensations. (ii) apply good governance principles and pay special attention in seeking solutions to the problems in the land sector.

² Legal Human Right Centre annual report , 2007

³ Prison's Department report, 2010

E. ADMINISTRATION OF JUSTICE

20. **Access to justice:** The Constitution of URT guarantees access to justice to its citizens. Despite measures taken by the government such as increasing the number of judges and magistrates, improving infrastructure and staff welfare, there is an increase of complaints against the court system. CHRAGG in one year received 216 complaints related to malpractices in the administration of justice⁴.
21. **Recommendations:** The government is urged to: (i) allocate more resources to the judiciary to facilitate improvement of court infrastructure especially in rural areas (ii) fast-track the civilianization process of transferring the responsibility of criminal prosecution from the police to public prosecutors (iii) guarantee accountability within the judiciary.
22. **Rights of persons in detention:** Various programs are being implemented to improve conditions in detention facilities. Despite such efforts, findings show that the prison department is inadequately funded, prisons are overcrowded and some buildings are dilapidated. By the end of 2010, there were 38,477 inmates country-wide while the actual capacity was 29,552⁵. As a result, prisoners do not access adequate health services and sanitation facilities, quality food, clean and safe water.
23. **Recommendations:** The government is urged to: (i) effectively use alternative sentencing like community services (ii) make parole system more effective (iii) expedite criminal investigations. (iv) increase the prison budget so as to improve the living and working conditions of prisoners and prison staff both in Tanzania mainland and Zanzibar (v) objectively implement rehabilitation of prisoners in practical terms
24. **Juveniles in retention facilities and in adult prisons:** The challenges facing juveniles in detention facilities include :- inadequate number of facilities for children as in Tanzania Mainland there is only one approved school and 6 retention homes for children; mixing children with adult prisoners in police and prison cells; Zanzibar has neither an approved school nor juvenile remand homes; juveniles do not appear before courts on prescribed dates due to transportation problems; delay of cases and sentences which do not reform children; inadequate rehabilitation and reintegration programmes; lack of legal representation for juveniles; absence of social welfare and

⁴ CHRAGG's annual report, 2009/10

⁵ CHRAGG's Prisons Impact Assessment Report, 2009/2010

probation officers within the juvenile justice system; children who accompany their mothers in prison do not access adequate required services.⁶

25. **Recommendations:** The government is urged to: (i) strengthen rehabilitation mechanisms for children who have come into conflict with the law (ii) train and deploy more social welfare and probation officers.

26. **Administration of Criminal Justice:** Law enforcers in Tanzania still commit human rights violations during arresting and interrogation of criminal suspects. The common violations include : Framing – up of cases; torture in its various forms; corruption; delay in bringing the suspects to courts within prescribed time (24 hours); and delay in completing investigation of cases⁷.

27. **Recommendations:** The government is urged to: (i) ensure law enforcers are sensitized through human rights education (ii) review regulations governing police service to meet human rights standards. (iii) provide sufficient working tools and improve working conditions for the Police.

F. THE RIGHT TO DEVELOPMENT AND POVERTY REDUCTION

28. **Promoting human rights compliance in the business sector:** Human rights and business is a developing phenomenon in Tanzania. General awareness about issues in human rights and business is low. Besides, investment laws do not balance the interests of citizens versus those of investors. The concerns include unfair land acquisition by companies and payment of inadequate compensations, business malpractices and unethical business contracts, poor observance of labour rights and rights of neighbouring communities in general.

29. **Recommendation:** The government is urged to: promote human rights in business and identify the roles of companies, the government agencies and other stakeholders.

G. GENERAL RECOMMENDATIONS: Government is urged to:

30. (i) ensure human rights education is mainstreamed in teaching curricula as part of all subjects from pre-primary to tertiary level (ii) empower the National Human Rights Institution with adequate financial resources to enable it carry out its functions more effectively (iii) incorporate and promote human rights in foreign investments and development policies (iv) address gaps identified in previous elections (v) facilitate constitutional and legal reforms that solidify human rights.

⁶ Assessment of Juvenile rights in detention centres, 2011 CHRAGG's findings

⁷ CHRAGG Annual reports 2007/08 -2009/10